

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of:

Comprehensive Review of Universal Service)	
Fund Management, Administration and)	WC Docket No. 05-195
Oversight)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
Rural Health Care Support Mechanism)	WC Docket No. 02-60
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Changes to the Board of Directors for the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

Comments of the NEILSA e-rate Consortia

The Northeast Iowa Library Service Area (NEILSA) provides services, at no cost to the library, to 84 libraries in a 13 county area of NE Iowa. The NEILSA Consortia provides e-rate services for not only the 84 libraries in NE Iowa, but also for the 120 libraries in northwest Iowa. Our potential applicant base is over 200 libraries serving primarily small town and rural public libraries. Our average public library serves a population of small town and rural Iowans of well less than 1500 in a single room library with an average of less than 2 staff that is open for less than 40 hours per week. Our average e-rate support request is funded for less than \$500.

NEILSA's mission is to help these libraries serve their communities and to provide access to the world of information available in today's sort-of-connected world. These comments come from the hard won experience of real, fill in the forms, applicants.

We appreciate the opportunity to comment on each of the Universal Service Fund Mechanisms but will primarily be limiting our comments to that of the Schools and Libraries. The following comments are the result of a combined effort by the librarians of the Consortia. We are small enough that we have

no consultants or attorneys and beg your indulgence if we should stray from the accepted forms of submission or address. Together, our libraries represent a cross section of Iowa public libraries. The only significant difference is that, because we work in consort, we have a significantly larger number of e-rate applicants than do Iowa libraries as a whole.

SUMMARY Statement: This program is broke, busted and out-of-control. Somewhat surprisingly, we do not feel it is the administration of the program but the unrealistic assumptions that were made at the very start of the program. For example, competition for telecommunications service does not exist in rural Iowa; any desire to make it so is a pipe dream. Additionally, we feel that setting a regulatory culture to a program intended to disperse funds to real American schools and libraries was, to mix metaphors, to build your house of cards on a bed of sand.

We support the proposals of the American Library Association and others as being practical and well conceived. On the other hand we would like to suggest some more radical concepts for your consideration and, in passing, make a few comments and suggestions in response to your questions.

As program applicants, the primary concern in our response is to simplify and streamline the program in all aspects.

In general, the concern in this filing is to *simplify and streamline the program in all aspects*. We believe that our suggestions built on those filed by SECA and ALA can help the Commission reform the program to the benefit of all parties.

Specifically, we suggest that, in addition to other simplification plans, the SLD establish a bright line of \$10,000.00 for Priority I services. All electronically filed simplified applications for Priority I services below the \$10,000 bright line would be assumed to be in compliance and would be funded upon application certification. Follow-up spot audits would be allowed after all the other funding year commitments had been processed. This would greatly increase applications for basic services by rural and small community serving libraries and schools, in the opinion of NEILSA Consortia members. The concerns about waste, fraud and abuse are in essence moot at this level of funding.

For regulated telecommunication services, no applicants should have to send the SLD any bills and other cost information. The SLD should request any needed documentation directly from the provider to verify applicant statements.

An applicant should only have to apply once for Priority 1 services, whether such services are covered by a contract or otherwise. In the second year and

beyond, actual costs could be documented on a one-page “renewal” application.

Concerning selected specific questions.

A. Management and Administration of the USF

Paragraph 12: Administrative Structure

The FCC asks if it “should replace the permanent, designated Administrator with another type of administrative structure or entity.” While we have had problems with the current program administration, we believe that changing the administrator without addressing the fundamental structural problems in the program itself will not resolve anything. In fact, it could make the situation worse, because a new administrator would need many months, if not years, to become familiar with the program. It is the dysfunctional nature of the program and the culture of the FCC that are the core problems. No changes in the administrator, without addressing these core problems, will resolve anything.

Paragraph 15: USAC Board and Committee Structure

The e-rate program has badly underused the human resources available to it. Both library and schools have state coordinators who are not only willing but have, for years, requested the opportunity to contribute. For the e-rate program, we believe that establishing a formal Advisory Group drawn from a cross section of applicants would be very useful. The current board does not have enough members who have day-to-day applicant experience with this program. An advisory group, made up of state e-rate coordinators and school and library staff who are responsible for e-rate in their respective institutions, could provide some desperately needed “real world” advice to the Commission.

Paragraphs 24-29: Performance Measures

Since the statutory goal of the e-rate program is to provide discounts on telecommunication services, Internet access and internal connections for eligible schools and libraries, we believe that the most useful and valid measures are:

1. the number of eligible applicants served and their level of participation
2. the number of schools and libraries participating can be relatively easy to measure
3. the change in participation over time is also easy to determine

Whether applicants are optimizing their discounts is more difficult to determine but an important measure. For example, what percentages, or number of participants, do not apply for Priority Two discounts because of insufficient funds, or for programmatic problems?

Considerable data on Internet connectivity already exists. For example, the study *Public Libraries & the Internet* (<http://www.ii.fsu.edu/plinternet>) was released in August 2005. It has considerable information on Internet connectivity in the nation's public libraries. The National Center for Educational Statistics collects similar data for schools. The Center's report, *Internet Access in U.S. Public Schools and Classrooms: 1994–2003*, was also released this year (<http://nces.ed.gov/surveys/frss/publications/2005015/>). In trying to identify schools or libraries with no broadband access or no connectivity at all, the FCC should work with the state education and library agencies that have information on school and library connectivity in their respective states. The e-rate is a key program in fulfilling the FCC's broadband initiative, as well as being vital in maintaining connectivity. All schools and libraries should have broadband connectivity at the speeds they need to support their clients.

Paragraphs 32-33: Program Management

The FCC has asked whether the e-rate distribution processes should more closely track those of the High Cost and Low Income programs

If the e-rate were modeled more closely on these other USAC programs, there would be no applicant waste, fraud or abuse. With a much more streamlined and rational application process, more schools and libraries would apply. In summary, we challenge the FCC to find a way to make something as simple as POTS simple for applicants to apply for, too.

Paragraphs 37-39: Application process

As stated, the Consortia supports, in general, the changes to the application process outlined in comments filed by the American Library Association (ALA). Additionally we have suggested:

While not directly related to issues of the application process, basic to it, is the method for calculating poverty level for libraries. The poverty calculation methodology has led to inequality in the program. This issue has been documented in an Ex Parte filing by the American Library Association on January 22, 2004. The NEILSA e-rate Consortia supports the ALA's Ex Parte filing.

The consortium strongly supports the simplification of all Priority 1 services. It is well documented that issues of waste, fraud and abuse in the program

are almost nonexistent with Priority 1 services. Therefore, there should be two application processes:

1. A greatly simplified process for Priority 1 services and
2. A more detailed process for Priority 2 services.

Finally, we believe the process can be greatly **enhanced by** the addition to other simplification plans of a bright line of \$10,000.00 for Priority I services. All electronically filed simplified applications for Priority I services below the \$10,000 bright line would be assumed to be in compliance and would be funded upon application certification.

Technology plans should not be a federal requirement for Priority 1 services. Telecommunications and Internet access have become mission critical services for libraries. Asking for a technology plan is a waste of applicant time and energy as realistic technology planning; plans that are not a formula but are a realistic look at our technology needs and futures is required by our state and consortia.

An applicant should only have to apply for Priority 1 services at startup, whether such services are covered by a contract or otherwise. In the second year and beyond, actual costs could be documented on a continuing basis by the service provider. For regulated telecommunication services, no applicants should have to send the SLD bills or Form 471 Item 21 style documentation. The SLD should request any needed documentation directly from the provider.

Unfortunately, many of our small libraries have given up on even applying for discounts. This is a sad commentary on a program that is not even competitive. The multitude of forms, combined with an onerous review process, has alienated small applicants. Our consortia serves an average public library with a population of well less than 1500 in a single room library with an average of less than 2 staff in a library that is open for less than 40 hours per week. Our average e-rate support request is funded for less than \$500.00. At a meeting of librarians of both applicants and non-applicants, SLD and PIA, especially, were compared unfavorably to FIMA and SBA. These librarians are Iowa farm wives who will spend their time away from the library, at this time of year, driving combines and hauling grain to the elevator – not your wildly radical types.

Priority 1 service funding should go directly to applicants from the SLD. Applicants should have the option to receive such funding monthly, quarterly or yearly. Getting service providers out of the fund transfer (via Form 472) will benefit all parties, simplify the process and insure that applicant actually receive the funds due them.

An applicant portal Website should be developed with current information on the status of all applications with actual information, not just “in process”.

Prolonged delays in getting applications approved are the norm, not the exception. As a result, not only are applicants left in funding limbo for months, but most need to cope with multiple annual funding cycles simultaneously. For example, as of this NPRM filing, Consortia applicants still have not received funding commitments for the July 1, 2005 funding year. So, they cannot yet file their Form 486's and requisite follow-up Form 472's. Meanwhile, the SLD is telling applicants to file Form 470's for the July 1, 2006 year. And, the final Form 472's for the July 1, 2004 year are due the end of October 2005. Multiple funding requests approved by the SLD at different times trigger different deadlines for different forms for different funding years. It becomes a full-time task just to track this muddle.

Paragraphs 40: Competitive Bidding

Let us be blunt. The competitive bidding envisioned by the Form 470 process is a bad joke for most applicants. Our consortium has filed for Priority 1 services for all but the first year of the program and has never received a response from any providers. Instead of resulting in real bids, the 470 has turned into a morass form that PIA uses to harass or refuse applicants who make honest mistakes in trying to answer all the questions on the form. Telecommunications providers are unable or unwilling to provide technical details of their service (Form 471 Item 21 attachments) which would normally come in a bid. Applicants are not telecommunications engineers and often have to take what the providers are willing and able to provide. As the SLD itself states, one of the leading causes of applicant denial is failure to adhere to the Form 470 “28 day” waiting period.

The consortium proposes that the FCC stop micromanaging the local procurement process. Libraries already have processes in place (e.g., state or local procurement regulations) that they use for the purchase of goods and services far exceeding their e-rate discounts. Library Boards are composed of citizens who keep a very close eye on expenses and purchasing actions. Applicants should be able to use their state/local purchasing regulations to procure services eligible for e-rate discounts. The SLD requirements often conflict with local purchasing regulations and, despite protestation on the part of SLD to the contrary, local procedures/decisions are not the primary consideration. The 470 could then be eliminated.

Paragraph 40: Technology Plans

While competitive bidding is a bad joke, technology planning is nothing more than a silly exercise in formula compliance. No consortia library has in 7 years ever looked at their SLD technology plan once it has been certified. It is both irrelevant and incomplete. Real technology planning is done and used, but it is planning device used to meet state and local requirements and needs and used to provide guidance for the library staff and board of trustees. As stated above, the consortia does not support the requirement of a technology plan for Priority 1 services. For Priority 2 technologies in libraries, state library agencies (state Department of Education for schools) should be the final arbiter of technology plans. Very rarely should any additional follow-up be allowed for e-rate purposes. Currently the SLD tries to use the technology plan to assure that applicants will pay the undiscounted portion of bills and that they have the resources in place to use e-rate discounted services. This is an abysmal failure. By e-rate rules, a three year plan must be developed almost four years prior to its expiration date. Honest planners know that no one can “call” the state of technology a year from now let alone four years in the future. The consortium believes that the addition of the Item 25 certification on the Form 471 has already provided a better way to assure this information. Specific information about funding and resources is now certified every year by an authorized person on Item 25 of the Form 471.

Paragraph 41: Forms

We have already commented that, with reliance on state/local procurement regulations and with funds going directly to applicants, many of the forms can be eliminated. The few remaining, with applicant input, can be considerably streamlined.

Paragraph 42: Timing of Application Cycle

As stated above, we support the ALA simplification process. This process, along with our own “bright line” proposal, would addresses questions of timing in the application and disbursement processes, among others.

Paragraph 43: Service Providers and Consultants

The Commission asks whether it should establish certain criteria, for example, standards of conduct, for participating service providers and consultants. While this might solve some problems, it is too early to address this problem when the problems of SLD responsiveness are endemic. The Consortia, in attempting to address this very question, queried the SLD on the criteria for plan approvers. Three months and four requests later, including an appeal to our Congressional delegation, was required to get an answer.

Why impose even more hurdles in the nature of standards on all providers and consultants when the great majority is ethical and above board? Those intent on gaming the system will attempt it regardless of what standards are in place and regardless of how many certifications are required on the various forms. SLD's PIA division procedures even encourage a certain amount of gaming the system.

B. Oversight of the USF
Paragraphs 69-75: Audits

As the Commission recognizes, many schools and libraries already obtain annual independent audits to comply with the Single Audit Act. When applicants obtain such audits, the consortium believes that the FCC should rely on them. At a minimum, there should be a baseline dollar figure at which the Commission would not normally seek its own audits. The consortium proposes that this figure be at least \$50,000 per applicant per funding year. As stated above, the consortia also believes that funding below a bright line of \$10,000 should be exempt from audits or "visits" except with documented reason for concern and the very rare spot audit. In order to impress the serious nature of an audit/visit on both parties, the consortia suggests that an audit that does not produce an actionable result would require SLD to reimburse the audited applicant for all cost associated with the audit. Small applicants can not afford the time and expense of SLD visits. In most cases, such an action would cost many times the amount the applicant might ever hope to gain in discounts.

Paragraph 90: Measures to Deter Waste, Fraud and Abuse

Requiring three bids, an idea the Commission has proposed, is simply not realistic for many applicants, especially telecommunications or Internet services. Many applicants, especially small and rural applicants, have not been able to get a bid from the current provider because they are the only supplier and they know it. Take it or leave it is not a bid. Any "three bid" rule would reduce participation in our consortia by over 93%. The need for increased scrutiny of applicants who fail to get three bids will just perpetuate the same problems applicants now have with onerous and overbearing review of their applications. Another form is the last thing this program needs.

Paragraph 95: Other Actions to Reduce Waste, Fraud and Abuse

The NEILSA e-rate Consortia condemn any waste, fraud or abuse in the e-rate program. However, we find it difficult to perceive how the Commission

could adopt any enforceable rule that objectively measures, let alone prohibits, waste and abuse. Fraud is already covered under other federal statutes. Trying to define this in a manner that is then objectively enforceable is simply not possible.

Whether it is apparent or not, the FCC's first line of defense against waste, fraud and abuse is the e-rate support offered to applicants by state education and library agencies and by applicants themselves. Our consortium spends over \$50,000 per year on e-rate related staff services to libraries in Iowa, not just in the consortia areas. All this expense is not reimbursed. We have been unable to find any other federal program that relies so heavily on state agencies but allocates \$0.00 for all their work and treats the state agencies as "also rans". In consideration of the critical but unrecognized work state coordinators do, we suggest the FCC reimbursing at least some of the costs for the time and work now done by state coordinators at state or agency expense. We suggest funding one FTE in every state. The estimates we have seen for this cost range from \$2.5 to \$5 million annually, barely more than one-tenth of one percent of the program's appropriation. Considering that the FCC is now paying far more than this to conduct applicant audits, we believe that this modest investment "up front" will more than pay for itself in reducing waste, fraud and abuse. In addition, it will allow states to provide more assistance directly to applicants. It has been shown that the level of assistance by the state to applicants is the most direct measure of program use.

Conclusion

The NEILSA e-rate Consortia, composed of applicants for this program, appreciate this opportunity to offer their suggestions to simplify and streamline the e-rate program. We believe that massive, fundamental changes are needed in the program. Furthermore, we believe that our proposals and those of the American Library Association address the significant issues in the program. We strongly encourage the Commission to implement these proposals as soon as possible.

Respectfully submitted

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